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TAX ALERT

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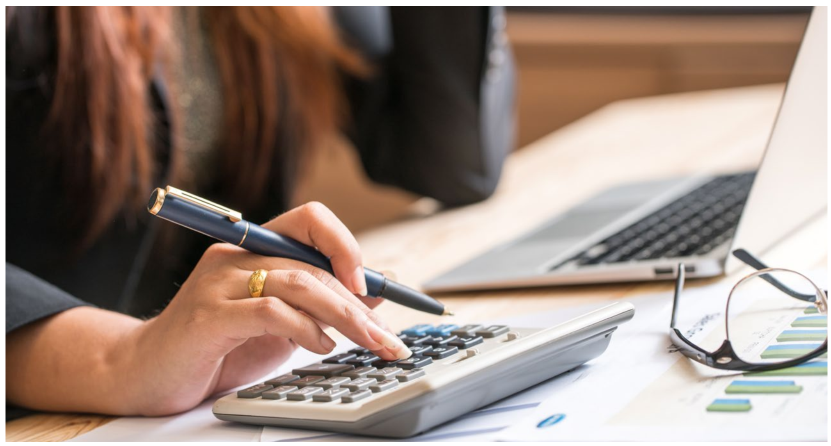
House Republican tax plan released Nov. 2, 2017



The House Ways and Means Committee released The Tax Cuts and Jobs Act on Nov. 2 which, if adopted, would represent the most significant federal income tax reform in 30 years. The analogous Senate committee is expected to release a tax reform bill that could differ in several key ways. Further, both bills will be subject to extensive amendments and strong political pressure. It's possible that few or none of the details released today will become law.

Among the more significant provisions contained in The Tax Cuts and Jobs Act bill released today:

Individuals

- Reduces the number of personal income tax brackets to four: 12 percent, 25 percent, 35 percent and 39.6 percent. While the bill eliminates the phase-out of itemized deductions, it does not eliminate the net investment income tax or the Medicare surtax.
- Eliminates many personal income tax deductions, including for state and local taxes (except property taxes discussed below), medical expenses, alimony and dependent care assistance program expenses.

- Retains several key deductions and credits:
    - Charitable deduction (although contributions that provide the donor with the right to purchase athletic tickets would no longer be deductible).
    - Home mortgage interest deduction, but subject to a lower $500,000 limit for new purchases. Further, the deduction would be limited to the taxpayer's principal residence.
    - State and local property taxes, up to $10,000.
    - Earned income tax credit.
- Standard deduction (used by some taxpayers instead of itemizing) roughly doubles to $12,000 for individuals and $24,000 for married couples. The higher standard deduction may cause some taxpayers who previously itemized to take the standard deduction, which could reduce some of the burden caused by eliminating many of the personal income tax deductions.
- Repeals the alternative minimum tax (AMT).
- Retains current 401(k) and IRA retirement programs.
- Repeals the estate tax after 2023 and immediately doubles the exemption to $10 million indexed for inflation. The basis step-up at death rules are retained. Eliminating the estate tax could result in a significant repatriation of offshore assets.

Businesses

- Lowers the corporate tax rate to 20 percent.
- Repeals the corporate alternative minimum tax (AMT).
- Imposes a maximum tax rate on qualified business income of individuals at 25 percent, but contains guardrails designed to prevent the recharacterization of wages as pass-through income.
- Imposes significant limitations on the ability of larger businesses to deduct interest expenses, although the limits are not applicable to certain real property trades or businesses.
- Allows immediate expensing (rather than capitalization) of new equipment purchases, and expands expensing for smaller businesses more broadly.
- Eliminates the deduction for domestic production activities under Section 199.

- Repeals the historic tax credit and the new markets tax credit, but retains the low-income housing tax credits and the R&D tax credit.
- Provides for the repatriation of corporate earnings currently held abroad. Under the bill, offshore business earnings held as cash and cash equivalents would face a one-time 12 percent tax, while noncash assets would be taxed at five percent, payable over up to eight years.
- Going forward, institutes a 100 percent dividend exemption for foreign-source dividends paid by foreign corporations to U.S. corporate shareholders owning at least 10 percent of the foreign entity, subject to certain base-erosion rules.
- Limits 1031 like-kind exchanges to real property, but expands to cover certain partnership interests in small partnerships that own real property.
- Tightens unrelated business income tax (UBIT) rules on tax-exempt entities and imposes an excise tax on investment income of certain private universities that have larger per-student endowments.
- Does not alter the taxation of carried interests.

For more information or assistance, please contact Mark Snider, Jim Mattimoe, Dave Tumen or any member of Porter Wright's Tax Practice Group.